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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/295,718	04/21/1999	STEVEN M. BLUMENAU	EO295/7087/R	7529

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EXAMINER

WILLETT, STEPHAN F

ART UNIT

PAPER NUMBER

2152

DATE MAILED: 09/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/295,718

Applicant(s)
Blumenau et al.

Examiner
Stephan Willett

Art Unit
2152



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jun 18, 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-85 is/are pending in the application.
- 4a) Of the above, claim(s) 21-33, 51-61, and 78-85 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20, 34-50, and 62-77 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 21-33, 51-61, and 78-85 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

DETAILED ACTION

Election/Restriction

1. Applicant's election of Group I in Paper No. 5 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 103

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-20, 34-50 and 62-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma et al. with Patent Number 5,920,725 in view of Ha with Patent Number 6,175,919.

5. Regarding claim(s) 1, 11, 13, 34, 42, 44, 62, 69, 71, Ma teaches updating code and

configuration information for distributed applications. Ma teaches storing first configuration information as to how to access a computer resource, col. 7, lines 6-13. Ma teaches determining a second access configuration, col. 7, lines 15-18. Ma teaches comparing the two configurations for differences, col. 7, lines 19-21. Ma teaches applying the second configuration when it differs from the older configuration, col. 7, lines 47-50. Ma teaches differing manners of accessing a resource, col. 9-10, lines 66-4. Ma teaches the invention in the above claim(s) except for explicitly teaching a configuration manner to access a resource. In that Ma operates to generate service requests within a CORBA environment, the artisan would have looked to the interprogram communication arts for details of implementing access to resources. In that art, Ha, a related network updating system, teaches a "BIOS upgrade system", col. 4, lines 6 in order to provide efficient updates. Ha specifically teaches "basic input-output system (BIOS)", col. 1, lines 16-17. Clearly, the manner of accessing a resource is taught. Further, Ha suggests "it is possible to save time and to collectively upgrade the BIO's of a plurality of computers", col. 5, lines 27-28 which will result from implementing his upgrading system. The motivation to incorporate different methods to access a resource insures that a diverse distributed computer network system is supported. Thus, it would have been obvious to one of ordinary skill in the art to incorporate the BIOS accessing method as taught in Ha into the upgradable system described in the Ma patent because Ma operates with methods to access mobile objects in a distributed system and Ha suggests that optimization can be obtained with access methods. Therefore, by the above rational, the above claim(s) are rejected.

6. Regarding claims 2-3, 35-36, 63, Ha teaches rebooting as part of the reconfiguration process, col. 5, lines 23-24. Thus, the above claim limitations are obvious in view of the

combination.

7. Regarding claims 4, 6-8, 10, 12, 17, 37-39, 41, 43, 47, 64-65, 68, 70, 74, Ma teaches storing component information to identify a resource and configuration information, col. 8, lines 20-21. Thus, the above claim limitations are obvious in view of the combination.

8. Regarding claims 5, 66, Ma teaches volumes of data associated with each resource, col. 8, lines 1-6 and in Ha at col. 4, lines 9-10. Thus, the above claim limitations are obvious in view of the combination.

9. Regarding claims 9, 40, 67, Ma teaches path or links to information, col. 8, lines 6-8. Thus, the above claim limitations are obvious in view of the combination.

10. Regarding claims 14, 45, 72, Ma teaches updating without reinitializing, col. 8, lines 18-19 and col. 15, lines 14-15. Thus, the above claim limitations are obvious in view of the combination.

11. Regarding claims 15, Ma teaches suspending operations in form, col. 7, lines 26-34. Thus, the above claim limitations are obvious in view of the combination.

12. Regarding claims 16, 46, 73, Ma teaches a mapping entity to each resource, col. 10, lines 51-56. Thus, the above claim limitations are obvious in view of the combination.

13. Regarding claims 18, 48, 75, Ha teaches updating via ports, Fig. 4. Thus, the above claim limitations are obvious in view of the combination.

14. Regarding claims 19, 49, 76, Ma teaches using different connection to access database information, col. 8, lines 25-27. Thus, the above claim limitations are obvious in view of the combination.

15. Regarding claims 20, 50, 77, Ma teaches moving configuration data from one storage

location to another, col. 11, lines 4-6. Thus, the above claim limitations are obvious in view of the combination.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is disclosed in the Notice of References Cited. The other references cited teach numerous other ways to perform updates, thus a close review of them is suggested.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (703) 308-5230. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

18. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart, can be reached on (703) 305-4815. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-6606.

19. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9605..

sfw

September 6, 2002



MARK H. RINEHART
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